

REMARKS

The scope of independent claims 1 and 2 are amended. Dependent claims 3 through 16 are amended to conform to customary US practice, eliminate multiple dependencies, and to improve clarity. New dependent claims 17 through 32 are added to eliminate multiple dependencies and for clarity. No amendment of the dependent claims or additional dependent claims narrow the scope of any limitation.

Double Patenting

In response to the nonstatutory obviousness-type double patenting rejection over U.S. 6,425,493 and U.S. 6,729,495, Applicant will consider submitting a terminal disclaimer to overcome the double patent rejection upon allowance of subject matter in the present application. Applicant takes no position in response to Examiner's arguments concerning the rationale for the rejection at this time.

Claim Rejections

Claims 1-3 and 6-9 have been rejected under Section 102(b) as being anticipated by U.S. 5,131,554 (Kuo). Claims 1-4 and 6-12 have been rejected under Section 102(e) as being anticipated by U.S. 5,996,832 (Nieuwoudt). Dependent claim 5 has been rejected under Section 103(a) as being unpatentable over Kuo in view of U.S. 5,653,355 (Tominaga). Dependent claim 5 has also been rejected under Section 103(a) as being unpatentable over Nieuwoudt in view of Tominaga. Applicant submits that the amended claims are patentable over the cited art.

For clarity, independent claims 1 and 2 have been amended to recite "a peripheral curl for forming a rim" in place of "a rim forming portion at its periphery"; "a circular center panel"; and "an annular groove" in place of "a substantially ring-shaped countersink". The peripheral curl is shown in the figures and specifically called out in Figures 10 – 12 as "peripheral 140" and on page 8, lines 5 – 7. The center panel and the annular groove are supported throughout the figures and text of the application. Claim 7 is amended to recite a pull tab, which is supported by the figures and page 6, lines 22 – 25. And the limitation

relating to the “exterior surface . . . is substantially flat or continuous, or has a slight curvature,” is removed from claims 1 and 2 in generally recited in new dependent claims 17 and 32. The amendments to claims 1 and 2 described in this paragraph do not limit the scope of any limitation.

Each of independent claims 1 and 2 is also amended to recite that the filler material is both “covering the groove” and “smoothly merging with the upper surface of the center panel.” Neither Kuo nor Nieuwoudt disclose such a limitation.

Rather Kuo discloses a dust cover that is placed over the sealing cap of the container. Similarly, Nieuwoudt discloses a cover attached to the top of a can. Therefore in both Kuo and Nieuwoudt the top of the containers are protected from foreign materials through the use of covers, and the user removes such materials by removing the covers themselves from the containers. Accordingly, neither Kuo nor Nieuwoudt disclose “filler material” that is “covering the groove” or that is “smoothly merging with the upper surface of the center panel.” Accordingly, Applicant respectfully submits that claims 1, and 2 are patentable over Kuo and Nieuwoudt .

Further, neither Kuo nor Nieuwoudt teach or suggest that “the filler material extends to about the same level as the center panel,” as recited in dependent claims 6 and 18, which provides an additional basis for allowability of claims 6 and 18 to that explained above. And because claims 3-32 depend on claims 1 and 2, applicant respectfully submits that they are also patentable over Kuo and Nieuwoudt.

DOCKET NO.: CC-3643
Application No.: 10/813,781
Office Action Dated: July 3, 2006

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CONCLUSION

Applicant respectfully submits that all of the pending claims are in condition for allowance, and requests favorable consideration. If the Examiner determines that a telephone conference would be beneficial to the prosecution of this case, he is invited to telephone the undersigned at his convenience.

Date: January 3, 2007

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